

**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF:

Seiichi Toki

APPLICATION No.: 10/594,130

FILED: June 27, 2007

FOR: METHOD OF TRANSFORMING
MONOCOTYLEDONOUS SEED

EXAMINER: Worley, Cathy Kingdon

ART UNIT: 1638

CONF. No: 7080

Transmittal of Issue Fee and Advance OrderMail Stop Issue Fee
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Allowance dated January 28, 2009, applicant herewith submits the following:

- ☒ Form PTOL-85B (2)
- ☒ Deposit account Number 50-4616 to be charged in the amount of \$1990.00 covering the following fees due:
 - 1) Issue Fee \$1510.00 (37 CFR 1.18(a)); 2) Publication Fee (37 CFR 1.18(d)): \$300.00
 - 2) IDS fee of 180.00 set forth in 37 CFR § 1.17(p)
- ☒ Information Disclosure Statement and Form PTO-1449
- ☒ Return Postcard

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment of fees due for timely filing of these papers to Deposit Account No. 50-4616.

Respectfully submitted,
King & Spalding, LLPDate: 28 April 2009/Susan J. Myers Fitch/
Susan J. Myers Fitch
Registration No. 55,477**Correspondence Address:**
Customer No. 79975

PATENT

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IN RE APPLICATION OF: SEIICHI TOKI

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Supplemental Information Disclosure Statement After Final Action or Notice of Allowance but Before Payment of Issue Fee – 37 CFR 1.97(d)Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

04/30/2009 SDENBOR4 00000087 504616 10594130
03 FC:1806 100.00 DA1. Timing of Submission

This information is being filed *after* a final Office action or a Notice of Allowance, whichever occurs first, but before payment of the Issue Fee.

2. Cited Information

☒ Copies of references 1-3 are enclosed.

3. Cumulative nature of references

Two references cited by the European Patent Office on 23 February 2009 in a related case are not already of record in the present case: (D5: Dale, et al. "Agroinfection of Wheat: Inoculation of In Vitro Growth Seedlings and Embryos," *Plant Science*, 63:237-245 (1989) and D7: JP patent application 2001-029075 entitled "Extremely Rapid Transformation of Monocotyledon," abstract in English). Review of these references indicates that they are cumulative to previously cited references in the present case, and thus, these references are no more pertinent to the allowed claims than are the Toki and Tanaka references already of record.

4. Effect of Information Disclosure Statement (37 C.F.R. § 1.97(h))

This Information Disclosure Statement is not to be construed as a representation that: (i) a search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the cited information is, or is considered to be, material to patentability. In addition, applicant does not admit that any enclosed item of information constitutes prior art to the subject invention and specifically reserves the right to demonstrate that any such reference is not prior art.

5. Petition – 37 CFR 1.97(d)

Applicant petitions the Patent and Trademark Office to accept this Information Disclosure Statement in light of the certification under 37 CFR 1.97(e) below, and payment of the fee under 37 CFR 1.97(d)(2).

6. Certification Under 37 CFR 1.97(e) (check one)

- ☒ In accordance with 37 CFR 1.97(e)(1), that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement

7. Fee Payment – 37 CFR 1.97(d)(2)

- ☒ Please charge deposit account 50-4616 in the amount of \$180.00 for the Information Disclosure Statement Fee as set forth in 37 CFR §1.17(p).
- ☒ Please charge any underpayment for timely filing of this paper to Deposit Account No. 50-4616.

8. Patent Term Adjustment (37 C.F.R. § 1.704(d))

- ☐ The undersigned states that each item of information submitted herewith was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of this statement. 37 C.F.R. § 1.704(d).

Respectfully submitted,
King & Spalding LLP

Date: 28 April 2009

/Susan J. Myers Fitch/
Susan J. Myers Fitch
Registration No. 55,477

Correspondence Address:

Customer No. 79975